

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

NICHOLAS A. GREEN,

Plaintiff,

V.

FORD MOTOR COMPANY,

Defendant.

Cause No. 1:08-cv-0163-LJM-DKL

## **PLAINTIFF'S MOTION FOR SANCTIONS**

Pursuant to Federal Rules of Civil Procedure 26, 34, and 37, Plaintiff Nicholas A. Green (“Plaintiff”) requests that this Court assess appropriate sanctions against Defendant, Ford Motor Company (“Defendant” or “Ford”) for their inappropriate gamesmanship. In support of this motion, Plaintiff states:

1. On January 22, 2008, Plaintiff filed its original Complaint against Ford, and it was removed to this Court on February 11, 2008. (Doc. #1).

2. On August 11, 2008, Plaintiff served Ford with its First Request for Production of Documents, and Ford responded on September 25, 2008. Among other things, Plaintiff's First Request for Production of Documents asked Ford to produce:

All documents, photographs, computer files, video and other media pertaining to any and all testing by Ford to determine the effectiveness of the restraint system used in the Explorer to protect occupants in the event of a rollover.

Id. at Request No. 3.

3. On January 30, 2010, Plaintiff served Ford with its Second Request for Production of Documents, and Ford responded on March 1, 2010. Among other things, Plaintiff's Second Request for Production of Documents asked Ford to produce:

Any testing, including data, photographs, video and written reports conducted by, or on its behalf, to evaluate the performance of integrated restraint systems or all belts to seat restraint systems in rollover collisions.

Id. at Request No. 3.

Any internal documents, engineering standards, codes, regulations, testing conducted by others or peer reviewed literature; relied on by Ford's engineers in deciding not to use integrated restraint systems or all belts to seat restraint systems in sport utility vehicles and other light trucks manufactured by it.

Id. at Request No. 4.

4. In preparing for trial, Plaintiff's counsel found a December 1, 1992 Ford document that analyzed the "Qualitative Benefits" and "Market Trends" of the "Integrated Restraint Seat for Front Occupant[s]." The documents states:

- a. "Ford EAO performed tests...2. Roll over test 1 & 2"; and
- b. "Seat design incorporates roll-over protection as well as integrated seat restraints";

5. The December 1, 1992 Ford memo is clearly responsive to Plaintiff's discovery requests, but was not produced by Ford. Furthermore, Ford has never produced the underlying testing documents for the December 1, 1992 "Project Status Review."

6. In light of Ford's failure to disclose this information, Plaintiff has been prejudiced by:

- a. Not being provided with the documents relevant to the testing program, test reports and test videos;
- b. Not being able to analyze the documents relevant to the testing program, test reports and test videos;

- c. Not being able to depose Ford personnel about the testing program, documents relevant to the testing program, test reports and test videos;
- d. Not being able to depose a corporate representative about the testing program, documents relevant to the testing program, test reports and test videos; and
- e. Not being able to provide any information whatsoever to plaintiff's experts for analysis and the ability to incorporate such information in their reports and subsequent opinions.

WHEREFORE, Plaintiff respectfully requests that this Court enter an order striking the Defendants pleadings for its inappropriate conduct, and grant Plaintiff such further relief as it deems just and appropriate under the circumstances.

Date: February 7, 2012

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### **CERTIFICATE OF SERVICE**

I certify that on this 7th day February of 2012, I electronically filed the foregoing with the Clerk of the court by using the CM/ECF system, which will send a notice of electronic filing to the following:

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